

REMARKS

Favorable action on the merits is solicited.

I. CLAIM STATUS AND AMENDMENTS

The Supplemental Amendment filed March 14, 2008 has not been entered. It should remain non-entered, since the present amendment introduces the amendments therein.

Claims 10-17 were pending in this application when last examined and stand rejected.

Claim 10 is amended to correct a punctuation error.

Claim 12 is amended. Support can be found in the disclosure, for example, at page 2, line 18 to page 3, line 18, and page 4, line 17 to page 5, line 15, and original claim 4. No new matter has been added.

New claims 18-23 have been added. Support for new claim 18 can be found in the disclosure, for example, at page 2, line 18 to page 3, line 18, and page 4, line 17 to page 5, line 15, and original claim 4. Support for new claims 19-23 can be found in original claims 5-9, respectively. No new matter has been added.

Claims 10-23 are pending upon entry of this amendment.

II. OBJECTION TO THE FOREIGN PRIORITY CLAIM

On page 2 of the Office Action, the Examiner argues that the limitations in claims 1-3 are not supported by

Applicant's foreign priority application and thus they are not entitled to the benefit of the priority foreign filing date.

This objection is confusing, because claims 10-17 were pending in this application, as of the amendment filed February 4, 2008, not claims 1-3. Thus, it is not clear to Applicant which claims the Examiner refers to. Further, the Examiner does not specify which claim limitations are allegedly not supported by the foreign priority application. Please clarify and/or withdraw the objection.

III. OBVIOUSNESS REJECTION

Claims 10-17 were rejected under 35 U.S.C. § 103(a) as allegedly obvious over BOBRYSEV (RU 2,175,010) in view of JAMNIKOV (RU 2,044,045) for the reasons on pages 3-12 of the Office Action.

This rejection is respectfully traversed.

The rejection should fall, because the combined cited prior art references fail to teach, suggest or make obvious all of the limitations of independent claims 10, 12, and 18, as required to support a *prima facie* case of obviousness.

Claim 10 as amended is directed to a vodka comprising: a percentage of absolute alcohol in water of about 35-50 vol %, 4-6 mM sugar, 0.05 - 0.2 mM of bicarbonate, 0.02-0.04 vol % of extract of flax seeds, and wherein said vodka has an amount of impurities / 1 of absolute alcohol in an amount as follows:

acetic aldehyde lower than 3 mg, fusel oil lower than 6 mg, ester lower than 5 mg, methyl alcohol lower than 0.2 ml, and an alkalinity characteristic of less than 3 meq.

As can be seen, the vodka of claim 10 is a water-alcohol composition with specific amounts of sugar, bicarbonate, and extract of flax seed. Moreover, only a minor amount of impurities are present in the vodka. It has been found that this combination of a minor amount of impurities with the addition of a specific amount of aromas and constituents in the vodka results in a high quality unique vodka with strong organoleptic parameters. Such high quality vodka having only a minor amount of impurities can be prepared according to the new process claims 12-23.

In this regard, claim 12 is directed to a process for preparing vodka, comprising: mixing water and absolute alcohol to obtain a mixture, treating the mixture with activated coal, adding sugar, aroma compounds and optionally other ingredients, cooling the mixture to a temperature of about -10°C to -15°C, at which temperature the mixture is maintained for about 4-8 hours, filtering the mixture, adapting the mixture to room temperature to obtain a filtrate, optionally adding other ingredients to the filtrate, and optionally further filtering the filtrate at room temperature before bottling said filtrate.

As can be seen, the process for preparing vodka of new claim 12 comprises deep freezing of a solution of water and absolute vodka to a temperature of -10°C to -15°C. It has been found that cooling to this temperature considerably increases the density of the water-alcohol solution and leads to formation of a crystalline film of impurities on the walls of the cooler tank. By filtering the solution at this temperature the crystalline film of impurities can be easily separated from the solution. This results in a vodka with only minor amounts of impurities (at levels recited in claim 10) and improved organoleptic parameters. Moreover, in the claimed method, prior to deep freezing, the water-alcohol solution is treated with activated coal. This pretreatment results in considerable pre-purification of the water-alcohol solution.

The process of new claim 18 requires similar steps of treating with activated coal followed by deep freezing to a temperature of -10°C to -15°C.

None of the cited documents, either taken alone or in combination, discloses or suggests the above-noted features of the carefully selected vodka composition of claim 10 or the above-noted steps of the process to prepare high quality vodka of new claims 12 and 18.

As to the vodka of claim 10, both BOBRY SHEV and JAMNIKOV fail to disclose a vodka containing bicarbonate. Although BOBRY SHEV and JAMNIKOV use pretreated drinking water as

a starting material, there is no indication that the final vodka contains an amount of bicarbonate.

Moreover, BOBRY SHEV and JAMNIKOV also do not disclose the specific low levels of specific impurities in the vodka as recited in the claims. BOBRY SHEV merely discloses the use of rectified ethyl alcohol "LUKS" and pretreated drinking water as starting material for the vodka. However, this gives no indication as to the amount of impurities in the final vodka product.

This is demonstrated by JAMNIKOV who also uses rectified ethyl alcohol "LUKS" and pretreated drinking water as starting material for a vodka. However the amount of impurities in the final vodka of JAMNIKOV differs from the indicated amount of impurities for the rectified spirit "LUKS" used as starting material.

As to the process of claims 12 and 17, BOBRY SHEV does not reveal or suggest deep-freezing in combination with a pre-treatment with activated coal. Also JAMNIKOV does not disclose or suggest the feature of a deep freezing step beyond -10°C . The cooling step of JAMNIKOV might result in homogenization of the water-alcohol solution, stabilization of physics and chemical indicators, and in the elimination of coarse particles and impurities, but is not strong enough to separate all impurities from a water-alcohol solution.

Since an amount of the impurities will not separate from the solution during this known cooling step of the cited prior art, the impurities will not be filtered out from the final vodka. This affects the concentration of impurities in the final vodka and the taste of the vodka. This stands in contrast to the vodka of claim 10 and the processes of claims 12 and 18.

Further, there is no hint or suggestion in the prior art to modify the cooling step of JAMNIKOV to lower the temperature beyond -10°C . The mere fact that bottles of vodka are sometimes stored in the freezer to allow for a cold drink, does not provide a suggestion for the skilled person to include a freeze step before bottling and before filtration to remove impurities from the water - alcohol mixture of the vodka.

Moreover, JAMNIKOV does not disclose a pre-treatment of a water-alcohol mixture with activated coal as required in the claimed processes. JAMNIKOV merely discloses the treatment of water over activated coal. Impurities in the alcohol are hence not affected. As a result, to achieve a low content of impurities in the alcohol, JAMNIKOV requires rectified spirit. By contrast, the claimed process provides a method in which a relatively expensive rectified spirit is not required.

Thus, it is clear that the combination of BOBRYSEV and JAMNIKOV fails to disclose or suggest each and every feature of independent claims 10, 12, and 18. Thus, these claims are novel and patentable over the combined references. The remaining claims

depend, either directly or indirectly, on one of the independent claims. Thus, the dependent claims are also novel and patentable over the combination of BOBRY SHEV and JAMNIKOV for the same reasons due to their dependency on the independent claims.

Thus, the 103(a) obviousness rejection over BOBRY SHEV and JAMNIKOV is untenable and should be withdrawn.

IV. CONCLUSION

Having addressed all the outstanding issues, the amendment is believed to be fully responsive. Thus, the application is in condition for allowance and notice to that effect is hereby requested. If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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